

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: : **Case No. 11-50401**
: **Chapter 13**
Todd M. Clark :
Heather L. Clark :
: **Judge C. Kathryn Preston**
Debtors. :

**DEBTORS' MOTION FOR CONTEMPT AND TURNOVER
OF PROPERTY AGAINST HSBC RETAIL SERVICES**

Now come the Debtors, by and through their attorney, and respectfully request the Court for an Order requiring HSBC Retail Services ("HSBC") to return to the Debtors their 2008 Yamaha 4 wheeler and for an order finding HSBC in contempt of Court. This Motion is made for the reasons set forth in the Memorandum included herein.

GRAHAM & GRAHAM CO., L.P.A.

/s/ J. William Merry
J. William Merry (0012360)
Attorney for Debtors
Graham Law Building
P. O. Box 340
Zanesville, OH 43702-0340
Telephone: (740) 454-8585
Fax: (740) 454-0111

MEMORANDUM IN SUPPORT OF MOTION

The Debtors filed their bankruptcy case on January 19, 2011. The Debtors listed on Schedule D a secured loan with HSBC. The loan was for a 2008 Yamaha 4 wheeler. HSBC had previously taken possession of the 4 wheeler when the Debtors defaulted on the loan but the 4 wheeler had not yet been sold. Counsel for the Debtors contacted HSBC with the bankruptcy information by phone and by letter and HSBC has refused to return the property to the Debtors.

The automatic stay imposed by Section 362(a)(2) stays any action against the property of the Debtors. The Debtors are entitled to an order from the Court requiring HSBC to return the 4 wheeler to the Debtors. The Debtors are also asking the Court to find HSBC in contempt of Court and that they be awarded damages against HSBC including reasonable attorney fees.

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NOTICE OF MOTION

The undersigned hereby certifies that a copy of the foregoing Motion for Contempt and Turnover of Property was served this date on those listed below.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to U.S. Bankruptcy Court, 170 North High Street, Columbus, OH 43215 or your attorney must file a response using the court's ECF System.

The court must receive your response on or before the date above.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to: J. William Merry, Attorney for Debtors, P.O. Box 340, Zanesville, OH 43702-0340.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

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Dated: February 14, 2011

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 14, 2011, a copy of the foregoing Motion for Turnover of Property and Notice of Motion was served on the following registered ECF participants, **electronically** through the Court's ECF System at the email address registered with the court:

Frank M. Pees
Chapter 13 Trustee

U. S. Trustee

And on the following by **ordinary U.S. Mail** addressed to:

Todd M. Clark
Heather L. Clark
217 McLaughlin Ave
Byesville OH 43723

HSBC Retail Services
Churchman's Corporate Center
90 Christiana Road
New Castle DE 19720

GRAHAM & GRAHAM CO., L.P.A.

/s/ J. William Merry
J. William Merry (0012360)
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